

such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under section 794 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for. (Added June 30, 1953, ch. 175, § 4, 67 Stat. 133, § 798; renumbered § 798A, Nov. 29, 1990, Pub. L. 101-647, title XXXV, § 3519(a), 104 Stat. 4923.)

REFERENCES IN TEXT

Section 1(a)(29) of the Emergency Powers Continuation Act (66 Stat. 333) as further amended by Public Law 12, Eighty-third Congress, referred to in text, was formerly set out as a note under section 791 of this title and was repealed by section 7 of act June 30, 1953.

Proc. 2912, 3 C.F.R., 1950 Supp., p. 71, referred to in text, is an erroneous citation. It should refer to Proc. 2914 which is set out as a note preceding section 1 of Title 50, Appendix, War and National Defense.

AMENDMENTS

1990—Pub. L. 101-647 renumbered the second section 798 of this title as this section.

TERMINATION OF NATIONAL EMERGENCY

Declaration of national emergency in effect on Sept. 14, 1976, was terminated two years from that date by section 1601 of Title 50, War and National Defense.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 951 of this title.

§ 799. Violation of regulations of National Aeronautics and Space Administration

Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined under this title, or imprisoned not more than one year, or both.

(Added Pub. L. 85-568, title III, § 304(c)(1), July 29, 1958, 72 Stat. 434; amended Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

CODIFICATION

Section was added by subsec. (c)(1) of section 304 of Pub. L. 85-568. Subsecs. (a) and (b) of section 304 are classified to section 2455 of Title 42, The Public Health and Welfare. Subsec. (d) of section 304 is classified to section 1114 of this title. Subsec. (e) of section 304 is classified to section 2456 of Title 42.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 951 of this title.

CHAPTER 39—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Sec.

- 831. Prohibited transactions involving nuclear materials.
- [832 to 835. Repealed.]
- 836. Transportation of fireworks into State prohibiting sale or use.
- [837. Repealed.]

AMENDMENTS

1982—Pub. L. 97-351, § 2(b), Oct. 18, 1982, 96 Stat. 1666, substituted “Prohibited transactions involving nuclear materials” for “Definitions” in item 831 and struck out items 832 “Transportation of explosives, radioactive materials, etiologic agents, and other dangerous articles”, 833 “Marking packages containing explosives and other dangerous articles”, 834 “Regulation by Interstate Commerce Commission”, and 835 “Administration”.

1970—Pub. L. 91-452, title XI, § 1106(b)(2), Oct. 15, 1970, 84 Stat. 960, struck out item 837.

1960—Pub. L. 86-710, Sept. 6, 1960, 74 Stat. 808, substituted “OTHER DANGEROUS ARTICLES” for “COMBUSTIBLES” in chapter heading, “explosives, radioactive materials, etiologic agents, and other dangerous articles” for “dynamite, powder and fuses” in item 832, “Marking packages containing explosives and other dangerous articles” for “Transportation of nitroglycerin” in item 833, “Regulation by Interstate Commerce Commission” for “Marking packages containing explosives” in item 834, and “Administration” for “Regulations by Interstate Commerce Commission” in item 835.

Pub. L. 86-449, title II, § 204, May 6, 1960, 74 Stat. 88, added item 837.

1954—Act June 4, 1954, ch. 261, § 2, 68 Stat. 171, added item 836.

HAZARDOUS SUBSTANCES

Federal Hazardous Substances Act as not modifying this chapter or regulations promulgated thereunder, see Pub. L. 86-613, § 18, formerly 17, July 12, 1960, 74 Stat. 380, as amended Pub. L. 89-756, § 4(a), Nov. 3, 1966, 80 Stat. 1305; renumbered and amended Pub. L. 91-113, § 4(a), (b)(1), Nov. 6, 1969, 83 Stat. 189, 190, set out as a note under section 1261 of Title 15, Commerce and Trade.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 136q; title 33 section 1507.

§ 831. Prohibited transactions involving nuclear materials

(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material and—

(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property; or

(B) knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;

(2) with intent to deprive another of nuclear material, knowingly—

(A) takes and carries away nuclear material of another without authority;

(B) makes an unauthorized use, disposition, or transfer, of nuclear material belonging to another; or

(C) uses fraud and thereby obtains nuclear material belonging to another;

(3) knowingly—

(A) uses force; or

(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material belonging to another from the person or presence of any other;

(4) intentionally intimidates any person and thereby obtains nuclear material belonging to another;

(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

(6) knowingly threatens to use nuclear material to cause death or serious bodily injury to any person or substantial damage to property under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under—

(1) paragraphs (1) through (7) of subsection

(a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

(ii) for not more than 20 years in any other case; and

(2) paragraph (8) of subsection (a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

(ii) for not more than 10 years in any other case.

(c) The circumstances referred to in subsection (a) of this section are that—

(1) the offense is committed in the United States or the special maritime and territorial

jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

(2) the defendant is a national of the United States, as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101);

(3) at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States; or

(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States.

(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if—

(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

(B) the provision of such assistance will not adversely affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary's discretion).

(2) As used in this subsection, the term “emergency situation” means a circumstance—

(A) that poses a serious threat to the interests of the United States; and

(B) in which—

(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

(ii) civilian law enforcement personnel are not capable of enforcing the law.

(3) Assistance under this section may include—

(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

(5) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

(f) As used in this section—

(1) the term “nuclear material” means material containing any—

(A) plutonium with an isotopic concentration not in excess of 80 percent plutonium 238;

(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

(C) uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

(D) uranium 233;

(2) the term “international organization” means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs;

(3) the term “serious bodily injury” means bodily injury which involves—

(A) a substantial risk of death;

(B) extreme physical pain;

(C) protracted and obvious disfigurement; or

(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

(4) the term “bodily injury” means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of a function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary.

(Added Pub. L. 97-351, §2(a), Oct. 18, 1982, 96 Stat. 1663; amended Pub. L. 100-690, title VII, §7022, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103-272, §5(e)(6), July 5, 1994, 108 Stat. 1374; Pub. L. 103-322, title XXXIII, §330016(2)(C), Sept. 13, 1994, 108 Stat. 2148.)

PRIOR PROVISIONS

A prior section 831, acts June 25, 1948, ch. 645, 62 Stat. 738; Sept. 6, 1960, Pub. L. 86-710, 74 Stat. 808; July 27, 1965, Pub. L. 89-95, 79 Stat. 285; Oct. 17, 1978, Pub. L. 95-473; §2(a)(1)(A), 92 Stat. 1464, defined terms used in this chapter, prior to repeal by Pub. L. 96-129, title II, §216(b), Nov. 30, 1979, 93 Stat. 1015. For savings provisions regarding former section 831, see section 218 of Pub. L. 96-129, set out as a note under former sections 832 to 835 of this title.

AMENDMENTS

1994—Subsec. (b)(1)(A), (2)(A). Pub. L. 103-322 substituted “fined under this title” for “fine of not more than \$250,000”.

Subsec. (c)(1). Pub. L. 103-272 substituted “section 46501 of title 49” for “section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)”.

1988—Subsec. (e)(2) to (6). Pub. L. 100-690 redesignated pars. (3) to (6) as (2) to (5), respectively.

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97-351 provided that: “This Act [enacting this section and amending section 1116 of this title] may be cited as the ‘Convention on the Physical Protection of Nuclear Material Implementation Act of 1982’.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 951, 2516 of this title.

§§ 832 to 835. Repealed. Pub. L. 96-129, title II, §216(b), Nov. 30, 1979, 93 Stat. 1015]

Section 832, acts June 25, 1948, ch. 645, 62 Stat. 738; Sept. 6, 1960, Pub. L. 86-710, 74 Stat. 809, related to transportation of explosives, radioactive materials, etiologic agents, and other dangerous articles.

Section 833, acts June 25, 1948, ch. 645, 62 Stat. 739; Sept. 6, 1960, Pub. L. 86-710, 74 Stat. 810, related to marking of packages containing explosives and other dangerous articles.

Section 834, acts June 25, 1948, ch. 645, 62 Stat. 739; Sept. 6, 1960, Pub. L. 86-710, 74 Stat. 810, related to formulation of regulations by Interstate Commerce Commission regarding transportation of explosives and other dangerous articles within United States.

Section 835, acts June 25, 1948, ch. 645, 62 Stat. 739; Sept. 6, 1960, Pub. L. 86-710, 74 Stat. 811; Oct. 15, 1970, Pub. L. 91-452, title II, §222, 84 Stat. 929; Oct. 17, 1978, Pub. L. 95-473, §2(a)(1)(B), 92 Stat. 1464, authorized Interstate Commerce Commission to administer, execute and enforce all provisions of sections 831 to 835 of this title.

EFFECTIVE DATE OF REPEAL

Section 217 of Pub. L. 96-129 provided that the repeal is effective Nov. 30, 1979.

SAVINGS PROVISION

Pub. L. 96-129, title II, §218, Nov. 30, 1979, 93 Stat. 1015, provided a savings provision for orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges issued, made, granted, or allowed to become effective under former sections 831 to 835 of this title, prior to repeal by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.

§ 836. Transportation of fireworks into State prohibiting sale or use

Whoever, otherwise than in the course of continuous interstate transportation through any State, transports fireworks into any State, or delivers them for transportation into any State, or attempts so to do, knowing that such fireworks are to be delivered, possessed, stored, transshipped, distributed, sold, or otherwise dealt with in a manner or for a use prohibited by the laws of such State specifically prohibiting or regulating the use of fireworks, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not apply to a common or contract carrier or to international or domestic water carriers engaged in interstate commerce or to the transportation of fireworks into a State for the use of Federal agencies in the carrying out or the furtherance of their operations.

In the enforcement of this section, the definitions of fireworks contained in the laws of the respective States shall be applied.

As used in this section, the term “State” includes the several States, Territories, and pos-

sessions of the United States, and the District of Columbia.

This section shall be effective from and after July 1, 1954.

(Added June 4, 1954, ch. 261, §1, 68 Stat. 170; amended Sept. 13, 1994, Pub. L. 103-322, title XXXIII, §330016(1)(H), 108 Stat. 2147.)

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” in first par.

FIREWORKS FOR AGRICULTURAL PURPOSES

Section 3 of act June 4, 1954, provided that: “This Act [enacting this section] shall not be effective with respect to—

“(1) the transportation of fireworks into any State or Territory for use solely for agricultural purposes,

“(2) the delivery of fireworks for transportation into any State or Territory for use solely for agricultural purposes, or

“(3) any attempt to engage in any such transportation or delivery for use solely for agricultural purposes, until sixty days have elapsed after the commencement of the next regular session of the legislature of such State or Territory which begins after the date of enactment of this Act [June 4, 1954].”

[§ 837. Repealed. Pub. L. 91-452, title XI, § 1106(b)(1), Oct. 15, 1970, 84 Stat. 960]

Section, Pub. L. 86-449, title II, §203, May 6, 1960, 74 Stat. 87, related to illegal use or possession of explosives and threats or false information concerning attempts to damage or destroy real or personal property by fire or explosives. See section 844 of this title.

CHAPTER 40—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

Sec.	
841.	Definitions.
842.	Unlawful acts.
843.	Licenses and user permits.
844.	Penalties.
845.	Exceptions; relief from disabilities.
846.	Additional powers of the Secretary.
847.	Rules and regulations.
848.	Effect on State law.

AMENDMENTS

1990—Pub. L. 101-647, title XXXV, §3520, Nov. 29, 1990, 104 Stat. 4923, substituted “Licenses” for “Licensing” in item 843.

1970—Pub. L. 91-452, title XI, §1102(a), Oct. 15, 1970, 84 Stat. 952, added chapter 40 and items 841 to 848.

§ 841. Definitions

As used in this chapter—

(a) “Person” means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(b) “Interstate” or foreign commerce means commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State. “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(c) “Explosive materials” means explosives, blasting agents, and detonators.

(d) Except for the purposes of subsections (d), (e), (f), (g), (h), (i), and (j) of section 844 of this title, “explosives” means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The Secretary shall publish and revise at least annually in the Federal Register a list of these and any additional explosives which he determines to be within the coverage of this chapter. For the purposes of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, the term “explosive” is defined in subsection (j) of such section 844.

(e) “Blasting agent” means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided*, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

(f) “Detonator” means any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

(g) “Importer” means any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

(h) “Manufacturer” means any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

(i) “Dealer” means any person engaged in the business of distributing explosive materials at wholesale or retail.

(j) “Permittee” means any user of explosives for a lawful purpose, who has obtained a user permit under the provisions of this chapter.

(k) “Secretary” means the Secretary of the Treasury or his delegate.

(l) “Crime punishable by imprisonment for a term exceeding one year” shall not mean (1) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (2) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(m) “Licensee” means any importer, manufacturer, or dealer licensed under the provisions of this chapter.

(n) “Distribute” means sell, issue, give, transfer, or otherwise dispose of.

(Added Pub. L. 91-452, title XI, §1102(a), Oct. 15, 1970, 84 Stat. 952.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.